

REMARKS

Reconsideration of this application is requested in view of the amendments to the claims and the remarks presented herein.

The claims in the application are claims 5 to 8 and 15, all other claims having been cancelled.

The Examiner has objected to the expression "agglomerate" and questioned the degree of sphericality.

Applicants respectfully traverse these grounds of rejection since the present claims are directed to the process and the use of an agglomerate surrounded by a layer of a polymer. It can be seen that the degree of sphericality is not absolutely perfect and it is clear from the process claims that the results will be understood and the agglomerate is a result of the process.

All of the claims were rejected under 35 USC 102 as being anticipated by the Graul et al or Agouridas et al references which, according to the Examiner, teach the compound.

Applicants respectfully traverse these grounds of rejection since the references cited by the Examiner, while teaching the compounds, do not anticipate Applicants' process claims which are directed to preparing an agglomerate of the telithromycin crystals by preparing a suspension of the said crystals and then coating the crystals with a phase which is insoluble in telithromycin from which the telithromycin progresses when it crystallizes and this is in no way suggested by the references cited by the Examiner. Moreover, claim 15 is directed to a method of treating bacterial infections in humans by administering to humans a spherical agglomerate of telithromycin crystals surrounded by a layer of a polymer which is in no way taught by the references cited by the Examiner. Therefore, the references neither anticipate nor render obvious the present claims and withdrawal of this ground of rejection is requested.

In view of the amendments to the claims and the above remarks, it is believed that the claims clearly point out Applicants' patentable contribution and favorable reconsideration of the application is requested.

Respectfully submitted,
Muserlian, Lucas and Mercanti



Charles A. Muserlian, 19,683
Attorney for Applicants
Tel. # (212) 661-8000

CAM:ds
Enclosure